IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JAMES EDWARD STEPHENS, Defendant.	MEMORANDUM DECISION AND ORDER GRANTING DEFENDANT'S MOTIONS TO CORRECT JUDGMENT Case Nos. 2:09-CR-29 TS 2:95-CR-94 TS

Defendant moves to correct the February 1, 2011 Amended Judgments filed in these two criminal cases pursuant to Fed. R. Civ. P. 60. Defendant argues that the written judgments of 36 months supervised release that were imposed for his violations of his supervised release in these two cases do not reflect the actual oral sentence of 24 months imposed at the sentencing hearing. The government has not filed any objection.

As an initial matter, it is Fed. R. Crim. P. 36 that allows the Court to "correct a clerical error in a judgment, order, or other part of the record" in this criminal case.[1] Rule

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[1]Fed. R. Crim. P. 36.

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36 does not allow the Court to "substantively modify a Defendant's sentence,"[2] but does permit the Court to "correct clerical mistakes and minor errors" in the judgment.

The Court has reviewed the transcript of the January 28, 2011 sentencing hearing and agrees with Defendant that the oral sentence imposed in these two cases was for 10 months in custody plus 24 months of supervised release. However, the written Amended Judgments[3] in these cases contain a clerical error showing 36 months rather than 24 months of supervised release. It is therefore

ORDERED that Defendant's Motions to Correct Judgment[4] are GRANTED and the Amended Judgments shall each be corrected to show the following correct term of supervised release: "24 months to run concurrent" with term of supervised release imposed in the other case.

DATED   May 18, 2011.

BY THE COURT:

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TED STEWART
United States District Judge

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[2]*United States v. Blackwell*, 81 F.3d 945, 948 n.3 (10th Cir. 1996).

[3]Docket No. 54 in Case No. 2:09-CR-29 TS and Docket No. 65 in Case No. 2:95-CR-94 TS.

[4]Docket Nos. 57 and 58 in Case No. 2:09-CR-29 TS and Docket No. 68 in Case No. 2:95-CR-94 TS.